

ASSEMBLY BILL

No. 281

Introduced by Assembly Member Gallagher

February 11, 2015

An act to amend Sections 7500.1, 7506.9, and 7507.5 of, and to add Sections 7509, 7509.1, 7509.2, and 7509.3 to, the Business and Professions Code, relating to collateral recovery.

LEGISLATIVE COUNSEL'S DIGEST

AB 281, as introduced, Gallagher. Collateral recovery.

Existing law, the Collateral Recovery Act, provides for the licensure and regulation of repossession agencies by the Bureau of Security and Investigative Services under the supervision and control of the Director of Consumer Affairs. The chief of the bureau serves under the direction and supervision of the director. Existing law makes a violation of the act a crime. Existing law also provides for the denial of a license for specified violations of the act, and authorizes the director to assess administrative fines and penalties.

This bill would establish a Collateral Recovery Disciplinary Review Committee, to consist of 5 members to be appointed by, and to serve at the pleasure of, the Governor, for purposes of reviewing the request of a licensee to contest the assessment of an administrative fine or to appeal a denial of a license, except as specified. The bill would set forth the duties of the Collateral Recovery Disciplinary Review Committee in that regard, and would authorize the members of the committee to be paid per diem and reimbursed for actual travel expenses.

Existing law prohibits a person from performing the duties of a registrant for a licensed repossession agency unless the person has in his or her possession a valid repossession registration card or evidence

of a valid temporary registration or registration renewal. Existing law authorizes a person to perform the duties of a registrant for a licensee pending receipt of a registration card if the person has been approved by the bureau and carries on his or her person a hardcopy printout of the bureau's approval from the bureau's Internet Web site.

This bill would authorize a person performing the duties of a registrant to alternatively display a hardcopy printout or electronic copy of the bureau's approval from the bureau's Internet Web site or an electronic screenshot display of this information directly from the bureau's Internet Web site. The bill would also authorize a person performing the duties of a registrant for a licensee pending receipt of a registration card if the person has been approved by the bureau and carries on his or her person an electronic screenshot display of this information directly from the bureau's Internet Web site.

The Collateral Recovery Act authorizes licensed repossessioners to perform repair work upon vehicles and charge owners if expressly authorized to do so.

This bill would prohibit licensed repossessioners from performing, or charging for, repair work.

This bill would also make technical changes.

Because a violation of the bill's provisions under the Collateral Recovery Act would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7500.1 of the Business and Professions
- 2 Code is amended to read:
- 3 7500.1. The following terms as used in this chapter have the
- 4 meaning expressed in this section:
- 5 (a) "Advertisement" means any written or printed
- 6 communication, including a directory listing, except a free

1 telephone directory listing that does not allow space for a license
2 number.

3 (b) "Assignment" means ~~a~~ any written authorization by the legal
4 owner, lienholder, lessor or lessee, or the agent of any of them, to
5 skip trace, locate, or ~~repossess or to collect money payment in lieu~~
6 ~~of repossession of any collateral~~, *repossess*, including, but not
7 limited to, collateral registered under the Vehicle Code that is
8 subject to a security agreement that contains a repossession clause.
9 "Assignment" also means ~~a~~ any written authorization by an
10 employer to recover any collateral entrusted to an employee or
11 former employee in possession of the collateral. A photocopy of
12 an assignment, facsimile copy of an assignment, or electronic
13 format of an assignment shall have the same force and effect as
14 an original written assignment.

15 (c) "Bureau" means the Bureau of Security and Investigative
16 Services.

17 (d) "Chief" means the Chief of the Bureau of Security and
18 Investigative Services.

19 (e) "Collateral" means any specific vehicle, trailer, boat,
20 recreational vehicle, motor home, appliance, or other property that
21 is subject to a security agreement.

22 (f) "Combustibles" means any substance or article that is capable
23 of undergoing combustion or catching fire, or that is flammable,
24 if retained.

25 (g) "Dangerous drugs" means any controlled substances as
26 defined in Chapter 2 (commencing with Section 11053) of Division
27 10 of the Health and Safety Code.

28 (h) "Deadly weapon" means and includes any instrument or
29 weapon of the kind commonly known as a blackjack, slungshot,
30 billy, sandclub, sandbag, metal knuckles, dirk, dagger, pistol, or
31 revolver, or any other firearm, any knife having a blade longer
32 than five inches, any razor with an unguarded blade, and any metal
33 pipe or bar used or intended to be used as a club.

34 (i) "Debtor" means any person obligated under a security
35 agreement.

36 (j) "Department" means the Department of Consumer Affairs.

37 (k) "Director" means the Director of Consumer Affairs.

38 (l) "Electronic format" includes, but is not limited to, a text
39 message, e-mail, or Internet posting.

1 (m) “Health hazard” means any personal effects ~~which~~ *that* if
2 retained would produce an unsanitary or unhealthful condition, or
3 which might damage other personal effects.

4 (n) “Legal owner” means a person holding a security interest
5 in any collateral that is subject to a security agreement, a lien
6 against any collateral, or an interest in any collateral that is subject
7 to a lease agreement.

8 (o) “Licensee” means an individual, partnership, limited liability
9 company, or corporation licensed under this chapter as a
10 repossession agency.

11 (p) “Multiple licensee” means a repossession agency holding
12 more than one repossession license under this chapter, with one
13 fictitious trade style and ownership, conducting repossession
14 business from additional licensed locations other than the location
15 shown on the original license.

16 (q) “Person” includes any individual, partnership, limited
17 liability company, or corporation.

18 (r) “Personal effects” means any property that is not the property
19 of the legal owner.

20 (s) “Private building” means and includes any dwelling,
21 outbuilding, or other enclosed structure.

22 (t) “Qualified certificate holder” or “qualified manager” is a
23 person who possesses a valid qualification certificate in accordance
24 with the provisions of Article 5 (commencing with Section 7504)
25 and is in active control or management of, and who is a director
26 of, the licensee’s place of business.

27 (u) “Registrant” means a person registered under this chapter.

28 (v) “Secured area” means and includes any fenced and locked
29 area.

30 (w) “Security agreement” means an obligation, pledge,
31 mortgage, chattel mortgage, lease agreement, deposit, or lien, given
32 by a debtor as security for payment or performance of his or her
33 debt, by furnishing the creditor with a recourse to be used in case
34 of failure in the principal obligation. “Security agreement” also
35 includes a bailment where an employer-employee relationship
36 exists or existed between the bailor and the bailee.

37 (x) “Services” means any duty or labor to be rendered by one
38 person for another.

39 (y) “Violent act” means any act that results in bodily harm or
40 injury to any party involved.

1 (z) The amendments made to this section during the 2005–06
2 Regular Session shall not be deemed to exempt any person from
3 the provisions of this chapter.

4 SEC. 2. Section 7506.9 of the Business and Professions Code
5 is amended to read:

6 7506.9. (a) Upon the issuance of the initial registration,
7 reregistration, or renewal, the chief shall issue to the registrant a
8 suitable pocket identification card. At the request of the registrant,
9 the identification card may include a photograph of the registrant.
10 The photograph shall be of a size prescribed by the bureau. The
11 card shall contain the name of the licensee with whom the registrant
12 is registered. The applicant may request to be issued an enhanced
13 pocket card that shall be composed of durable material and may
14 incorporate technologically advanced security features. The bureau
15 may charge a fee sufficient to reimburse the department for costs
16 for furnishing the enhanced pocket card. The fee charged may not
17 exceed the actual cost for system development, maintenance, and
18 processing necessary to provide the service, and may not exceed
19 six dollars (\$6). If the applicant does not request an enhanced card,
20 the department shall issue a standard card at no cost to the
21 applicant.

22 (b) Until the registration certificate is issued or denied, a person
23 may be assigned to work with a temporary registration on a secure
24 form prescribed by the chief, and issued by the qualified certificate
25 holder, for a period not to exceed 120 days from the date the
26 employment or contract commenced, provided the person signs a
27 declaration under penalty of perjury that he or she has not been
28 convicted of a felony or committed any other act constituting
29 grounds for denial of a registration pursuant to Section 7506.8
30 (unless he or she declares that the conviction of a felony or the
31 commission of a specified act or acts occurred prior to the issuance
32 of a registration by the chief and the conduct was not the cause of
33 any subsequent suspension or termination of a registration), and
34 that he or she has read and understands the provisions of this
35 chapter.

36 (c) The chief shall issue an additional temporary registration
37 for not less than 60 days nor more than 120 days, if the chief
38 determines that the investigation of the applicant will take longer
39 to complete than the initial temporary registration time period.

(d) No person shall perform the duties of a registrant for a licensee unless the person has in his or her possession a valid reposessor registration card or evidence of a valid temporary registration or registration renewal as described in subdivision (b) or (e) of this section or subdivision (c) of Section 7506.10. Every person, while engaged in any activity for which licensure is required, shall display his or her valid pocket card, *a hardcopy printout or electronic copy of the bureau's approval from the bureau's Internet Web site, or an electronic screenshot display of this information directly from the bureau's Internet Web site* as provided by regulation.

(e) A person may work as a registrant pending receipt of the registration card if he or she has been approved by the bureau and carries on his or her person a hardcopy printout or electronic copy of the bureau's approval from the bureau's Internet Web site, *or an electronic display of this information directly from the bureau's Internet Web Site*, and a valid picture identification.

SEC. 3. Section 7507.5 of the Business and Professions Code is amended to read:

7507.5. No charge shall be made for services incurred in connection with the recovery, transportation, and storage of collateral except under terms agreed to by the legal owner at the time of the repossession authorization or specifically agreed upon at a subsequent time. ~~Repair work may not be charged to the legal owner unless expressly authorized by him or her~~ *shall not be performed and shall not be charged to the legal owner.*

SEC. 4. Section 7509 is added to the Business and Professions Code, to read:

7509. (a) A person licensed with the bureau under this chapter may request a review by the Collateral Recovery Disciplinary Review Committee, as established in Section 7509.1, to contest the assessment of an administrative fine or to appeal a denial of a license, unless the denial is ordered by the director in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) A request for a review shall be by written notice to the disciplinary review committee within 30 days of the issuance of the citation and assessment or denial.

(c) Following a review by the disciplinary review committee, the appellant shall be notified within 30 days, in writing, by regular

1 mail, of the committee's decision. At the discretion of the
2 disciplinary review committee, an appellant may be notified
3 immediately of the committee's decision once it is made.

4 (d) If the appellant disagrees with the decision made by the
5 disciplinary review committee, he or she may request a hearing in
6 accordance with Chapter 5 (commencing with Section 11500) of
7 Part 1 of Division 3 of Title 2 of the Government Code. A request
8 for a hearing following a decision by the disciplinary review
9 committee shall be by written notice to the bureau within 30 days
10 following notice of the committee's decision.

11 (e) If the appellant does not request a hearing within 30 days,
12 the disciplinary review committee's decision shall become final.

13 (f) Notwithstanding subdivisions (a) to (e), inclusive, where a
14 hearing is held under this chapter to determine whether an
15 application for licensure should be granted, the proceedings shall
16 be conducted in accordance with Chapter 5 (commencing with
17 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
18 Code, and the director shall have all of the powers granted therein.

19 SEC. 5. Section 7509.1 is added to the Business and Professions
20 Code, to read:

21 7509.1. (a) The Governor shall appoint a Collateral Recovery
22 Disciplinary Review Committee, and may remove any member of
23 the committee for misconduct, incompetency, or neglect of duty.
24 The committee shall consist of five members. Of the five members,
25 three members shall be actively engaged in the business of owning
26 licensed repossession agencies and two members shall be public
27 members. None of the public members shall be licensees, certificate
28 holders, or registrants, or engaged in any business or profession
29 in which any part of the fees, compensation, or revenue thereof is
30 derived from any licensee.

31 (b) The disciplinary review committee shall meet as frequently
32 as may be required. The members shall be paid per diem pursuant
33 to Section 103 and shall be reimbursed for actual travel expenses.
34 The members shall serve for a term of four years.

35 SEC. 6. Section 7509.2 is added to the Business and Professions
36 Code, to read:

37 7509.2. The Collateral Recovery Disciplinary Review
38 Committee shall perform the following functions:

1 (a) Affirm, rescind, or modify all appealed decisions concerning
2 administrative fines assessed by the director or bureau against
3 repossession agencies or their employees.

4 (b) Affirm, rescind, or modify all appealed decisions concerning
5 denial of licenses issued by the director or bureau, except denials
6 or suspensions ordered by the director in accordance with Chapter
7 5 (commencing with Section 11500) of Part 1 of Division 3 of
8 Title 2 of the Government Code.

9 SEC. 7. Section 7509.3 is added to the Business and Professions
10 Code, to read:

11 7509.3. The bureau shall provide the Collateral Recovery
12 Disciplinary Review Committee all evidence used by the bureau
13 in reaching its decision prior to any review or appeal of that
14 decision by the committee.

15 SEC. 8. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.